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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,052	10/16/2001	John H. Randby	S63.2-8920	8428

490 7590 05/16/2005

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

THALER, MICHAEL H

ART UNIT PAPER NUMBER

3731

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	09/982,052	RANDBY ET AL.	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) 4,5 and 12-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,16,17 and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 4, 5 and 12-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the response filed Feb. 27, 2004.

Claims 1-3, 6-11, 16, 17 and 21-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Willard et al. (5,980,530). Willard et al. disclose a catheter comprising an expandable distal portion 14, stent 20, first sleeve 22 having a first end (the left end) attached to the catheter and having a second end (the right end) being about the expandable distal portion 14, wherein the expandable distal portion 14 is movable within the second end relative to the second end (as indicated in col. 4, lines 1-3 and shown in figures 1 and 2, for example), the second end of the first sleeve abutting the first end of the stent when the an expandable distal portion 14 is in its contracted state, such that the first sleeve and stent do not overlap. (The "contracted state" of the expandable distal portion 14 is considered to be the state slightly contracted relative to the state shown in figure 2 wherein the right end of the first sleeve 22 inherently abuts the left end of the stent just as the sleeve slides off the outer surface of the stent. Note that the

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term "contracted" is a relative term and does not require complete retraction of the balloon. The claimed "expanded state" is shown in figure 2.) Alternatively, it would have been obvious that the right end of the first sleeve 22 abuts the left end of the stent just as the sleeve slides off the outer surface of the stent since the sleeve contracts toward the balloon as it slides off the outer surface of the stent.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willard et al. (5,980,530) in view of Stambaugh (6,136,011). Willard et al. fail to disclose the center portion of the stent being expanded before the ends of the stent. However, Stambaugh teaches that the center portion of the stent should be expanded before the ends of the stent in order to obtain the advantage of preventing injury to the lumen tissue (col. 2, lines 28-34). It would have been obvious to use the balloon design of Stambaugh for the Willard et al. et al. balloon to make the Willard et al. center portion of the stent expand before its ends so that it too would have this advantage.

Applicant's arguments with respect to claims 1-3, 6-11, 16, 17 and 20-24 have been considered but are moot in view of the new ground(s) of rejection. Note that the Willard et al. expandable distal portion 14 is movable relative to the second end of the first sleeve 22 as is now claimed.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the

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organization where this application or proceeding is assigned is
(703)872-9306.

mht
5/11/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731